

## THE CITY OF CLAYTON

Board of Aldermen Meeting  
Council Chambers - 10 N. Bemiston Avenue  
August 14, 2012  
7:00 p.m.

### Minutes

Mayor Goldstein called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Andrea Maddox-Dallas, Cynthia Garnholz, Mark Winings, and Alex Berger III.

Mayor Goldstein  
City Manager Owens  
City Attorney O'Keefe (*arrived 7:05p.m.*)

Absent: Joanne Boulton

Mayor Goldstein asked for any questions or comments relating to the July 24, 2012 minutes, which were previously provided to the Board.

**Alderman Garnholz moved to approve the July 24, 2012 minutes. Alderman Maddox-Dallas seconded the motion.**

**The motion to approve the minutes passed unanimously on a voice vote.**

### **PUBLIC REQUESTS AND PETITIONS**

None

### A PUBLIC HEARING AND AND RESOLUTION TO CONSIDER APPROVING A CONDITIONAL USE PERMIT FOR 1 OAK KNOLL PARK

**Alderman Harris moved to open the public hearing with regard to Resolution No. 12-22, a request for a conditional use permit for to allow the operation of an early childhood center at 1 Oak Knoll Park and request proof of publication. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

City Manager Owens reported that this is a public hearing and resolution to consider a conditional use permit application submitted by Natalie Cox, CECC (Clayton Early Childhood Center) Board of Directors member, for the continued operation of a child care facility at the subject property (formerly the Rice mansion) owned by the City of Clayton.

The subject property has a zoning designation of R-2 Single Family Dwelling District. Child day care facilities are conditionally permitted uses in the R-2 Zoning District. In 1990, a Conditional Use Permit was issued to the Clayton Child Center to operate a day care facility. Clayton Child Center remained open until May 30, 2012, at which time the Clayton Early Childhood Center (CECC) took over operations.

The applicant has stated that the CECC is a non-profit child day care. The building is approximately 16,500 square feet, all of which will be used for CECC operations including infant, toddler and preschool programs and related administrative functions. An outdoor play area is located on the southwest side of the building. Proposed hours of operation are 7:30 a.m. to 6:00 p.m. Monday through Friday.

CECC is licensed with the State of Missouri to care for 95 children. Approximately 60 children are currently enrolled. CECC hopes to increase enrollment in the next two years. There are between 25 and 30 staff members, teachers and administrators on site at any given time.

Per the lease agreement with the City of Clayton, CECC is allocated 40 parking spaces in the Oak Knoll parking lot. An additional 11 spaces are located along the driveway to the building. The turnaround area in front of the building entrance is used for morning drop off and evening pick up. CECC has contracted with Midwest Waste for weekly refuse pick up. There is an existing screened refuse container located near the northwest corner of the building that will be used for CECC operations.

The Plan Commission considered this request and voted unanimously to recommend approval. No interior or exterior renovations are being proposed at this time. A permit for the installation of a 21-square foot ground sign was issued on July 6, 2012.

Staff recommendation is to approve a Conditional Use Permit to the Clayton Early Childhood Center for the operation of a child day care facility at 1 Oak Knoll Park, pursuant to the stipulations and conditions listed in the attached resolution.

**Alderman Harris moved to close the public hearing with regard Resolution No. 12-22, a request for a conditional use permit to allow the operation of an early childhood center at 1 Oak Knoll Park. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris moved to approve Resolution No. 12-22, and grant a conditional use permit for #1 Oak Knoll Park. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

#### CENTENNIAL CELEBRATION

Judy Goodman gave the Board a thorough PowerPoint presentation, update and timeline on scheduled calendar events on the Centennial Celebration plans. She added that Elizabeth Robb also worked very hard on the preparations. She pointed out that they have published a "coffee table" book on Clayton which will be available to purchase very soon. She said that their objective is to create partnerships with businesses, institutions and various committees to help and add to the celebration.

Mayor Goldstein thanked Judy Goodman and also acknowledged Elizabeth Robb for all of the wonderful work they are doing in preparing for the Centennial. She said that she knows that they have been busy in the planning.

Alderman Harris thanked Judy Goodman and said that she and Elizabeth Robb are doing a fantastic job.

Judy Goodman commented that if the Board had any further questions or ideas to contact her at any time.

**AN ORDINANCE TO CONSIDER APPROVING A THIRD QUARTER AMENDMENT TO THE FY 2012 BUDGET**

Janet Watson reported that this is the third quarter budget amendment which is a large “movement”, but the net effect is fairly small. Some items had to do with items that had originally been planned when the budget was approved and then how those items are carried out later. She explained that the total revenue increase is \$7,728,212 and the total expenditure increase is \$7,587,181 with a net effect of \$141,031 increase in the ending fund balance. She explained that the City budgeted a “place holder” for issuing bonds in 2011 (FY2012) of \$10 million in the Capital Improvement Fund as well as the estimated initial bond payment. The amendment is for the bond proceeds receipt for \$10 million which actually netted \$9,849,000 and they are reducing the “place holder” line for the bond proceeds in the Capital Improvement funds and putting those proceeds in a new fund and doing the same with the debt service resulting in a reduction. In addition, the bond funds were being used for projects, there was a little money remaining in the 2009 issuance that was to be spent in FY2012, but ended up spending a little more in FY2011. The City also had a few items that were unbudgeted for this year, they received a reimbursement for some project costs, approximately \$1,568,000 and they are placing \$900,000 into the Equipment Replacement Fund. They have established the new data centers and the police furniture with the remaining to be placed in the Capital Improvement Fund. She noted another unbudgeted item where they had spent some design costs in a grant from several years ago and the grant did not go through, but now they have a new project with the same grant. For the last few years they have worked to get reimbursed for those design costs which the Public Works department was successful in getting \$221,000. She welcomed questions from the Board and stated that the Board’s comments and questions really are helpful and staff truly appreciates them.

Mayor Goldstein thanked Ms. Watson stating that the explanation and summary was very helpful as they try to digest all of the information.

**Alderman Harris introduced Bill No. 6338, an ordinance to consider approving an amendment to the FY2012 Budget to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O’Keefe reads Bill No. 6338, for consideration of an ordinance an ordinance amending the Fiscal Year 2012 Budget and appropriating funds pursuant thereto for the first time by title only.**

**The motion passed unanimously by a voice vote.**

**Alderman Harris introduced Bill No. 6338, an ordinance to consider approving an amendment to the FY2012 Budget to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O’Keefe reads Bill No. 6338 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6219 of the City of Clayton.**

**AN ORDINANCE TO APPROVE AGREEMENTS WITH THE CLAYTON SCHOOL DISTRICT FOR SCHOOL RESOURCE OFFICERS**

City Manager Owens reported that in the Fall of 1997, the City entered into an agreement with the Clayton School District to provide a School Resource Officer at Clayton High School. Partial funding for the position was provided through a Federal grant. The grant paid for one third of the cost of the officer while the School District paid one third as did the City. In 1999, an agreement was reached to also provide a School Resource Officer at Wydown Middle School. As Federal funding was still available, the one third agreement was continued for that position as well.

In 2003, Federal funding was no longer available with the exception of one year remaining on the School Resource Officer position at Clayton High School. At that time, the City and School District entered into a three year agreement to continue the School Resource Officer program at both the High School and Middle School. The agreement was that the City and the School District would each pay 50% of the cost of the officer at each school. In 2009, an agreement was made with the School District that they would pay 75% of the cost of the officer at each school. This ordinance authorizes the renewal of that agreement for three years.

Recommendation is to approve the resolution authorizing the City Manager to sign the agreements.

**Alderman Harris introduced Bill No. 6339, an ordinance to approve a renewal agreement with the Clayton School District for School Resource Officers to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6339, an ordinance approving School Resource Officer (SRO) Agreements with the Clayton School District for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6339, an ordinance to approve a renewal agreement with the Clayton School District for School Resource Officers to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6339 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6220 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING A VACATION AND DEDICATION OF RIGHT-OF-WAY IN THE 400 BLOCK OF SOUTH CENTRAL AVENUE**

City Manager Owens reported that SM Wilson has approached the Public Works Department on behalf of the Clayton School District with a request to vacate and dedicate a portion of the City's right-of-way along the north and west edge of the street and cul-de-sac within the 400 block of South Central Avenue. The proposed area of the vacation totals 2,276 square feet and the dedication totals 869 feet as shown on the attached plat. The vacation and dedication will align the right-of-way with the existing layout of the street, cul-de-sac and perimeter public sidewalk within the 400 block of South Central Avenue.

SM Wilson is requesting this right-of-way vacation and dedication in order to construct a rain shelter within the area that is to be dedicated. The rain shelter will be utilized to protect children from the elements as they wait to be picked up at the cul-de-sac.

The Plan Commission considered the boundary adjustment on August 6<sup>th</sup>, 2012, and has recommended approval of the right-of-way vacation/dedication plat.

Staff recommends approval of this vacation and dedication as requested. The applicant shall provide a copy of the recorded right-of-way vacation/dedication plat to the Public Works Department within 30 days of the approval of the Board of Aldermen.

**Alderman Harris introduced Bill No. 6340, an ordinance to approve a right-of-way and dedication in the 4000 block of S. Central Avenue to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

Mayor Goldstein acknowledges that Tim Wonnish, Clayton School District, was in the audience.

In response to Alderman Harris' question regarding completion of the project, Mr. Wonnish stated that if the Board approves the proposed request this evening than they would need to submit plans to the Architectural Review Board and also apply for permits before the construction could begin.

**City Attorney O'Keefe reads Bill No. 6340, an ordinance vacating certain excess right of way on South Central Avenue within the City Of Clayton, Missouri for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6340, an ordinance to approve a right-of-way and dedication in the 4000 block of S. Central Avenue to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6340 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6221 of the City of Clayton.**

**AN ORDINANCE APPROVING A SUPPLEMENTAL AGREEMENT WITH ENGINEERING DESIGN SOURCE, INC. (EDSI) FOR DESIGN SERVICES RELATED TO THE WYDOWN BOULEVARD RESURFACING PROJECT**

City Manager Owens reported that on February 14, 2012, the Board of Aldermen approved a survey and engineering contract with Engineering Design Source, Inc. (EDSI) for the Wydown Boulevard Resurfacing Project. The original contract with EDSI was in the amount of \$93,934.

The original agreement called for EDSI to provide pavement coring, surveying, engineering support, and construction testing. It was anticipated that the City would perform most engineering work in-house, as this was to be a simple "mill and fill" project. However, during pavement coring, it was found that the pavement had a limited cross section, with pavements as thin as two inches of asphalt on an aggregate base. Most of the roadway does not have a concrete base.

Based upon these thicknesses, "mill and fill" is no longer a valid option. We need to consider overlays, pavement reconstruction, and curb reconstruction in order to strengthen the road while maintaining drainage patterns. This amount of work is beyond the capabilities and capacity of City staff. Therefore, the City has negotiated a supplemental agreement with EDSI for additional survey and engineering services. MoDOT has approved of this supplemental agreement.

Regarding the funding of this additional work, thanks to the completion of initial boundary survey work, it has become apparent that the funds needed for ROW/Easement Acquisition will be minimal. Therefore, the City has submitted a request to the East-West Gateway Council of Governments that \$100,000 be transferred from the ROW phase to the Preliminary Engineering (PE) Phase. We have received confirmation from East-West Gateway that this transfer will occur.

Along with \$28,590 in funds still in the PE account (due to successful negotiation of the initial contract), the transfer of funds will cover the cost of the supplemental agreement (20% local match).

Another concern with the unexpected existing conditions is that construction costs could increase. Until further PE work has been completed, it is unclear whether such concerns are justified. Our initial estimates did include a fair amount of curb replacement and pavement repair, so the requisite repairs may already be covered within the construction estimate. That being said, we anticipate a portion of the ROW funds could also be transferred to Construction phase of the project.

Recommendation is to approve the supplemental contract with EDSI in the amount of \$126,182, plus a design contingency of \$20,000 for the Wydown Boulevard Resurfacing Project.

**Alderman Harris introduced Bill No. 6341, an ordinance to approve a supplemental contract for the design of the Wydown Resurfacing project to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

Alderman Harris requested additional information on the process for resurfacing and also she is interested to know what they had found once testing had begun.

Steve Meyer, the City's Project Manager, addressed the Board briefly explaining the process. He said that the crew cuts holes into different areas of the asphalt and discovered that in a prior resurfacing project several years ago there had been very little asphalt applied on top of the rock underlayment. He said that he could gather testing results and other information and provide it to the Board.

In response to Alderman Maddox-Dallas' question, Steve Meyer stated that if resurfacing is down incorrectly the top layer can oxidize and wash away over time.

**City Attorney O'Keefe reads Bill No. 6341, an ordinance approving a supplemental contract with Engineering Design Source, Inc., for engineering services related to the Wydown Boulevard Resurfacing Project for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6341, an ordinance to approve a supplemental contract for the design of the Wydown Resurfacing project to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6341 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6222 of the City of Clayton.**

**AN ORDINANCE APPROVING TEMPORARY EASEMENTS, TEMPORARY CONSTRUCTION LICENSES, PERMANENT SIDEWALK AND UTILITY EASEMENTS, AND A RIGHT-OF-WAY CONVEYANCE FOR THE PEDESTRIAN ENHANCEMENT PROJECT**

City Manager Owens reported that the Public Works Department is requesting approval of a number of property rights acquisitions related to the Pedestrian Enhancement Project. This is a federally-funded streetscape project running along the south side of Bonhomme Avenue from Brentwood Boulevard to Bemiston Avenue, along both sides of S. Central Avenue between Bonhomme Avenue and Shaw Park Drive, along the east side of S. Meramec Avenue between

Bonhomme Avenue and Shaw Park Drive, and at the northeast corner of the intersection of Brentwood Boulevard and Shaw Park Drive.

Seven of the easements are temporary easements, which allow for the City's contractor to place concrete forms on private property, so concrete sidewalks can be constructed all the way to the ROW, maximizing the pedestrian path. The temporary construction licenses are essentially the same document, but modified because the long-term leaseholders can sign temporary construction licenses, but cannot sign temporary easements.

Two of the easements are permanent sidewalk and utility easements. Due to the geometry of the roadway at these locations, there is insufficient width to construct accessible sidewalks. Fortunately, the adjacent property is green space, so the property owner is willing to allow a sidewalk to infringe upon a few square feet of their property.

The remaining acquisition is the conveyance of property at the northeast corner of the intersection of Brentwood Boulevard and Shaw Park Drive. The corner has long been problematic, as the confined space will not allow for the construction of an accessible curb ramp. The Shaw Park Place Condominium Association is dedicating property at this corner to become public ROW, which will allow for the construction of a retaining wall, a plaza, and an accessible curb ramp.

All of the property rights were acquired in accordance with the regulations set forth by MoDOT and the FHWA due to federal funding of the Pedestrian Enhancement Project. Property owners were sent an initial letter explaining the request and their rights as a property owner. This was followed with negotiations over the phone, via email, and in-person. The ROW dedication and seven of the easements were negotiated in 2009 and 2010 during the first iteration of the Pedestrian Enhancement Project. These property owners were all notified in February 2012 that the easements would be utilized for the revised version of the project. The remaining four easements were negotiated by Public Works staff in 2012.

In all cases, the property owners donated the property rights to the City, based upon the benefits that they will receive as a result of the improvements themselves. This is a testament to the willingness of Clayton's Corporate Citizens to support such projects.

Recommendation is to approve the ordinance authorizing the City Manager to execute temporary construction easements, permanent sidewalk and utility easements, and a right-of-way dedication related to the Pedestrian Enhancement Project.

**Alderman Harris introduced Bill No. 6342, an ordinance to approve easement agreements for the Pedestrian Enhancement project to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6342, an ordinance approving temporary easements, temporary construction licenses, permanent sidewalk and utility easements, and a right-of-way conveyance for the Pedestrian Enhancement Project for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6342, an ordinance to approve easement agreements for the Pedestrian Enhancement project to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6341 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye;**

**Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6223 of the City of Clayton.**

**A RESOLUTION READOPTING THE PROCEDURE TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST**

City Manager Owens reported that in 1991, the Missouri General Assembly adopted the ethics/personal financial disclosure law, which affects municipalities with an annual operating budget in excess of \$1 million. The ethics legislation allowed political subdivisions to establish their own method of disclosing potential conflicts of interest and substantial interests. Accordingly, pursuant to Section 105.485 of the Missouri Revised Statutes, on August 13, 1991, the City adopted by ordinance its own simplified personal financial disclosure requirements.

According to Section 105.485.4, RSMo., the Missouri Ethics Commission requires each affected municipality to readopt the personal financial disclosure ordinance in an open meeting biennially by September 15<sup>th</sup>.

Recommendation is to approve the resolution readopting the City of Clayton's procedure to disclose potential conflicts of interest and substantial interests for certain municipal officials.

**Alderman Harris moved to approve Resolution No. 12-23 and readopt the annual Financial Disclosure Requirements. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

**Other**

Mayor Goldstein reminded the Board that a budget work session is scheduled Friday, August 17<sup>th</sup> at 2:00 p.m. prior to their regularly scheduled Strategic Discussion Session.

Alderman Harris reported that the Parks and Recreation Commission met last week and there was a presentation given on the new Shaw Park pavilion. She said that everyone is anxious for the Board to see the design work and they envision a lot of exciting possibilities for its use.

Alderman Harris also reported that the CRSWC met on August 10<sup>th</sup> and they are in the final stages of approving the FY2013 Budget.

Alderman Garnholz reported on the Clayton Century Foundation Board of Directors met and approved the dog park to be added to their projects' list.

Alderman Garnholz also reported that Bev Wagner has submitted applications to the Laumeier Sculpture Park to acquire up to 14 sculptures to be permanently loaned to the City of Clayton. She explained that Laumeier Park is giving away or permanently loaning the sculptures.

Alderman Winings commented that the artist for all of the sculptures is Ernest Trova and all have a metallic type design. He said that Bev Wagner recognizes that if her applications are accepted there is still a lot of work to be done, i.e. location, etc.

Alderman Harris said Trova is the same artist for the sculpture outside of Cardwell's restaurant.

Alderman Garnholz reported that the Plan Commission voted on a proposal to amend text to allow drive through banking in the C-1 Commercial District and that staff recommended against the



proposal. She reported that the Plan Commission had four members in attendance at the meeting and the vote resulted in a tie.

City Attorney O'Keefe explained that although the Plan Commission's motion to recommend approval to the Board failed it will still come to the Board without an affirmative recommendation if the applicant prefers.

Alderman Winings reported on the Uniformed Employee Retirement Fund Board the actuarial consultant was present and there was discussion about the assumption used and as they were calculating the city's contribution they assumed that fund assets will have a 7% rate of return. The discussion was reassuring and also good news because the consultant concurred that the 7% is an appropriate long-term assumption and in fact, is maybe a little more conservative than what a lot of other cities are using and this good news is also relevant to the budget discussions.

Mayor Goldstein acknowledged that she's delighted to see the other co-chair, Elizabeth Robb had arrived. She said that they are looking forward to the celebration and thanked her for all of her hard work on the Centennial Celebration.

**Alderman Berger moved that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15). Alderman Winings seconded the motion.**

**The motion passed unanimously on a roll call vote cast as follows: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye.**

There being no further regular business the meeting adjourned at 7:55 p.m.

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Mayor

ATTEST:

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City Clerk